

A nonprofit organization, created to construct and maintain a building for the exclusive purpose of housing and serving exempt member agencies of a community chest, may be exempt under section 501(c)(3) of the Code; Revenue Ruling 58-547 distinguished.

Advice has been requested whether a nonprofit organization formed and operated in the manner described below qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The organization was created to construct and maintain a building to house member agencies of a community chest, thereby facilitating coordination among the agencies and making more efficient use of the available voluntary labor force. Membership in the organization is limited to the board of directors of the community chest. The agencies occupying the building are exempt from Federal income tax under section 501(c)(3) of the Code. The building's construction expenses were financed by contributions from the general public and by the issuance of noninterest bearing obligations to other charitable organizations.

The organization's building was erected on city land that is the subject of a long-term lease under which the organization pays only a nominal rental and is committed to use the premises for the exclusive purpose of housing and otherwise serving the community chest agencies.

Office space in the building is leased to member agencies at a rate that makes the organization's rental income approximately equal to its total annual operating costs without any allowance for depreciation. This results in a rental rate that is substantially less than commercial rates for comparable facilities. The building also contains a large central meeting room that is separately maintained for the free use of the lessees and other interested community chest agencies under the general supervision and control of the organization's executive director.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes.

The organization has demonstrated that its operations will materially aid its various tenants and other users of its facilities in the performance of their respective charitable functions. All tenants receive a direct financial benefit in that the rental charges made are substantially less than the general commercial rate for comparable facilities. Moreover, the organization's provision for housing a number of member agencies at one convention central place enables such agencies to make frequent use of volunteer labor on an efficient basis and promotes their common interests by facilitating the effective co-ordination of their interrelated operations and services.

The performance of a particular activity that is not inherently charitable may nonetheless further a charitable purpose. The overall result in any given case is dependent on why and how that activity is actually being conducted. See Rev. Rul. 67-4, C.B. 1967-1, 121. Because of the close connection between this organization and the charitable functions of the tenant-organizations, the rental of the organization's facilities at rates substantially below their fair rental value, and the operation by the organization with the intention of realizing an amount sufficient only to meet annual operating costs, the organization is dedicated to carrying out the charitable endeavors of the community chest and its member agencies. Accordingly, it is held that the organization is exempt from Federal income tax under section 501(c)(3) of the Code.

This Revenue Ruling is distinguishable from Revenue Ruling 58-547, C.B. 1958-2, 275, which holds that a lease, the parties to which are both exempt under section 501(c)(3) of the Code and which otherwise constitutes a business lease within the meaning of section 514 of the Code, will not be considered as substantially related to the charitable purpose of the lessor solely because the lessee is likewise an exempt organization. By contrast, the instant organization leases space in a non-commercial manner at substantially below the 'going-rate,' and there is a close relationship between its purposes and functions and those of the tenant organizations.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the Income Tax Regulations.

A nonprofit organization formed by a medical staff of an exempt hospital to carry on a charitable program of benefit to the hospital qualifies for exemption under section 501(c)(3) of the Code.

Advice has been requested whether a nonprofit organization organized and operated in the manner described below qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The organization was formed by the active medical staff of a hospital exempt from Federal income tax under section 501(c)(3) of the Code. The purpose of the organization is to carry on a charitable program of benefit to the hospital. In furtherance of this purpose the organization provides scholarships and similar financial assistance to interns and residents during the course of their medical training, purchases new equipment for the hospital, and establishes various research grants.

The active medical staff consists of individuals engaged in the private practice of medicine who agree to undertake certain duties in connection with the hospital's operation. One of these duties is to provide medical services to patients admitted to the hospital without a personal physician. Before the enactment of Medicare and Medicaid legislation, many of these services were usually rendered without compensation. However, under the provisions of this legislation, most of these patients are now eligible for payments for medical services furnished to them. Instead of collecting the fees for the services rendered to these patients, the staff physicians, who are the members of the organization, assign to the organization their rights to receive these fees. The organization collects the fees and uses the proceeds to carry on its charitable program. The physicians render the medical services referred to as part of their duties as active staff members of the hospital. Such services are, therefore, not part of the organization's activities.

No part of the organization's funds is used for the private benefit of the members.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest.

Under the circumstances set forth above, the collection of the fees is merely the conversion of assigned assets to cash. The organization is carrying on a charitable program by providing

funds for medical education, improvement of hospital facilities, and research. Since all funds are used for these purposes, the organization serves a public interest, rather than the private interest of any of the members. Accordingly, the organization is exempt from Federal income tax under section 501(c)(3) of the Code.

For a discussion of the tax treatment of the fees collected with respect to the physicians, see Rev. Rul. 58-220, C.B. 1958-1, 26, Rev. Rul. 66-377, C.B. 1966-2, 21, Rev. Rul. 69-274, C.B. 1969-1, 36, and Rev. Rul. 69-275, C.B. 1969-1, 36.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.